Supreme Court, U.S.
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

DR. PEPI SCHAFLER

Petitioner

v

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual member of the board
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board
NASON, YEAGER, GERSON, WHITE,LIOCE & SCOTT

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF ISSUE

As the owner of a condominium apartment in Palm Beach County Florida, petitioner's property rights run with the land. There is the large development called Indian Springs located in Boynton Beach, and more than 20 subdivisions therein, one of them being Fairway Park. Although in title for the past 22 years, petitioners is not now nor has ever been a Florida resident. . The property is used for an occasional vacation, and is leased during the winter season to help defray the considerable costs of ownership. Both the subdivisions and the larger development have condominium and maintenance associations in which every property owner is a shareholder.Their duties and responsibilities are the grass and flowers, pools, tennis, courts, golf courses, roads and the exterior of the buildings. Fees are collected from everyone to enable them to meet their duties. These fees bring in between $10.000.000-$12.000.000 annually. The boards of the associations are drunk with power in having that large amount of money "under their control" for which they have never ever, since the creation of the development in 1978 provided a financial statement or accounted in any way, and use it as their personal piggy bank. Asking for an accounting statement, brings down the wrath, and having all this money available they can harass anyone they want. Petitioner has sought accountability, and though never received any, has been on a list to be harassed. Since December 2001, respondents have alienated and figuratively occupied her property. Petitioner has suffered harm and injury, and a significant monetary loss.

QUESTIONS PRESENTED

1. Were petitioner's Fifth and Fourteenth Amendment Constitutional rights to substantive due process , equal protection and property rights violated by the District Court?

2. By the Eleventh Circuit Court of Appeals ?

3. Did the Eleventh Circuit Court of Appeals review de novo?

4. Did the Eleventh Circuit Court of Appeals impermissibly discriminate against petitioner by having someone other than Article III Judges read pro se appeals?

5. Is the Eleventh Circuit Court of Appeal's decision inconsistent, trivializing , and not on point?

6. Did the Eleventh Circuit Court of Appeals wrongfully deny petitioner her right to oral argument pursuant to F.R.A.P. Rule 34?

7. Did the District Court misstate, misapply and misinterpret the holdings of this Honorable Court?

8. Does the District Court's "valuation" of the claim at instant conflict with holding of this Honorable Court as well as other circuits on this subject ?

9. In doing so did the District Court substitute it's own opinion for the opinion of this Honorable Court, and preempt the opinion of a jury?

10. Did the District Court wrongfully dismiss the claim for other reason?

11. Was the decision in the matter at instant by District Court Judge Hurley of the Palm Beach Division of the Florida District Court influenced by his allegedly having received numerous campaign contributions from respondents throughout his more than 20 years of running for office in Palm Beach County until being appointed to the District Court, and should he have recused himself?

12. Is Judge Hurley's decision filed with inconsistencies?

13. Has petitioner's condominium apartment been unlawfully "occupied" without right , privilege or compensation, and therefore also alienated the covenant that runs with the land?

14.May the condominium and maintenance associations that are formed to take care of the lawns, flowers, pools, the athletic venues, and are therefore in contractual servitude to the property owners interfere with the use of an owner's real property at will?

15. May the associations convert a clause "right of first refusal" for lease or purchase of private property, into an instrument of extortion?

16. Have they done so in the matter at instant?

17. Does counsel for the associations have a duty to represent all the property owners, as there is no rank or standing, and all are equal?

18. Does counsel have a duty to be truthful with the association officers to curb their interest in harassment and abuse as a result of what they perceive is their own omnipotence?

19. Do they exploit the sociology of the population at Indian Springs for personal gain?

20. Has counsel for the all the members i.e. the property owners done that ?

21. Has counsel for the associations subverted the interest of the property owners, i.e. the members tin order to generate income hours for themselves through billable hours?

22. If respondent alleged a debt by petitioner, should they have to provide evidence of same, or is "because I say so sufficient"?

23. If respondents allege a debt, did they violate 15 U.S.C. # 1692 and # 1692 (a) the fair debt collection act.

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Petitioner hereby declares that there are no corporate interests involved in this matter.

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JURISDICTION OF THIS HONORABLE COURT FOR A WRIT OF CERTIORARI

Article III Section 2, of the United States Constitution vests the Supreme Court with the judicial power and jurisdiction to all cases and controversies in law and equity, and appellate jurisdiction to same. Pursuant to 28 USCA # 1651 (a) the Supreme Court and all courts established by an Act of Congress may issue all writs necessary and appropriate in aid of their respective jurisdictions and agreeable to the principles and the usage of law. Pursuant to 28 USCA # 1254 (i) cases in the Court of Appeals may be reviewed by Writ of Certiorari granted upon the petition of any party to a civil or criminal case, before or after rendition of judgment. In the present matter the lower courts have misinterpreted , misstated and misapplied holdings by this Honorable Court. As the Honorable Justice Stevens said in *Florida v Rodriguez , 409 US 1, (1984),* " as the court of last resort in the federal system , we hold supervisory authority and therefore must occasionally perform pure error correcting functions in federal litigation. "

DECISIONS IN THE LOWER COURTS

The Eleventh Circuit Court of Appeals denied rehearing en banc on May 6, 2003 , from a decision by the same Court dated March 7, 2003. The District Court for the Southern District of Florida dismissed the claim on April 26, 2002.

STATEMENT OF FACTS

Petitioner is the owner of a condominium apartment in Boynton Beach Florida, located in Palm Beach County Florida , in the Indian Springs development , and the subdivision of Fairway Park within. This ownership dates back about 22 years , at first with a former spouse, later through a trust. At the time of purchase petitioner resided in Buffalo New York, which has very harsh winters, and occasionally going somewhere warm was important. No longer residing in a cold climate the apartment has been use for an occasional vacation. Most significantly for a number of years it has been leased for the winter months. The annual leasing income generated helps defray the not insignificant cost of ownership. The yearly expenses include the mortgage payment, taxes, water, power, telephone, a monthly fee to the Fairway Park condominium association, a quarterly fee to the Indian Springs maintenance association, an annually paid for maintenance service for all home repair, cleaning service , and replacement for things worn or no longer appealing looking. The interior of the apartment is attractive, 100% furnished and fully equipped. The subdivision is of Fairway Park, is nice, as is the whole Indian Springs development. The leasing period of the apartment is for somewhere around Thanksgiving through March or April, or starting the first day of the new year for 3-4 months.

The seasonal renters usually reside in the states with cold winters, are most often retired or part time retirees, financially comfortable to be able to afford this. People seeking to winter in Florida come there in late August or September to find a place, and enter into the initial arrangements , deposit etc. This is done through realtors and the same realtor has been in charge of leasing petitioner's apartment for many years. An exceptionally nice, competent person, who knows the "drill" i.e. what need to be done when. The renters referred to as "snow birds" are -for a variety of reasons - a very welcome sight in the state of Florida, in the communities, and at Indian Springs. They come with ready money to spend in the cities and towns, they patronize the restaurants, shops, malls, the sports and entertainment venues , and much, much more. In addition to bringing sales tax revenue to the state, the renters also pay a special Florida "bed tax" 10% of the cost of the lease.Yet they require no municipal or community services. The snow birds are quite welcome in the development as well not only for companionship and social interest, but

they also become property owners after being exposed to the environment. Five out of petitioner last six tenants purchased property there.There are about 20 or so subdivisions in Indian Springs. Some are for single detached homes, some for townhouses, i.e. attached home, and then are the apartments buildings who are one story "garden type "; in some parts of the country they are referred to as horizontal town houses These are common in warm and resort settings. There is a downstairs apartment and an upstairs each with separate entrances, and this long building holds 8 of those. A road runs through the development accessible to all, but the subdivisions have manned security gated access only. Residents and renters after they are there have an electronic chip attached to their car which opens a dedicated gate, while all others are prevented from entering. Either a name is added to the list at the security gate, or if an invitee the gate telephones to verify this with the resident. The sociological profile of the residents is the profile of the aging anywhere: loneliness, isolation, rejection, disrespect, illness , fear of catastrophic illness , which is not changed by the lovely surroundings , their personal afluence. Petitioner was friendly with a lovely couple next door who albeit in their early eighties fit this profile. they were not ill, educated, afluent, with many interests, but the burden of loneliness, rejection, disrespect had become too much to bear, so one evening they went to bed, took a variety of narcotic containing medications , put plastic bags over their heads and went to sleep.Their bodies were not discovered for many days.

Although real property values have increased significantly in the state of Florida, this is not true for Indian Springs, where the property values have decreased by 50%. This is not because of some inherent flaw with the property, but rather the people who are on the boards of the subdivisions as well as the board of Indian Spring. The Palm Beach Post had a full page investigative report about this matter and attributed it to the shady deals involving the associations, real estate transactions, self dealing and money. There is a lot of money involved , millions of dollars. The Indian Springs Maintenance Association is alleged to take in about $10.000.000-12.000.000 million dollars per year. The Fairway Park Condominium Association about $750.000.

Both Associations : Indian Springs maintenance asociation, and the Fairway Park condominium association, are "mafia" like organizations : secretive, corrupt, lawless, abusive, use the property owners money to purchase political and social favors, and generally use as their trust fund. Petitioner, as an original owner has never ever received an accounting statement in 22 years, neither has anyone else. **The State of Florida Condominium Stattutes Rule 718-111 requires that an annual financial statement audited by a certified public accountant must be provided to each proeprty owner, by both associations of which each property owner is a shareholder-member. Furthermore, four times per year each property owner has to be provided with a statement of his/her account . None of those two state requirements have ever been met.** If one asks to see the financial records, just for asking, one gets harassed, sort of black listed , and shuned. Having decribed the sociological profile of the resident population, this Honorable Court can see that they are not going to ask questions. Everyone is aware that they are in the clutches of something akin to an "organized crime sindicate", but in the hierarchy of problems this one can be solved with money, so they do not ask questions. About 40% of the property owners that are not residents, also avoid demanding financial accounting, because it is too difficult to pursue long distance. Several years ago petitioner did demand some financial statements , which she ofcourse was not provided with, and to force compliance it is a legal process. Petitioner could not follow through because it was too dificult not being in loco, having other professional and personal responsibilities. But her name and face were placed on a "do harass list ", and show her who is "boss".

Both associations have been under the control of the same men-they are all men since the start despite allegedly holding elections.There have been people challenging these "elections", yet inexplicably the same despised individuals are back. Only death removes them. These retired men that are in charge of Indian Springs and Fairway Park, have in their life in some northeastern state been automobile salesmen , dentists, shoe salesmen, had businesses, some have been forced out of their business by their children, and suddenly they are in control of multi million dollar bank accounts for which they have successfully avoided accounting, and they are totally drunk with their power, and fully prepared to abuse it, becuse this money will buy them avoidance of accountability.They use the property owners money to provide legal representation, so they do not nuch care.

The monthly and quarterly fees paid to Fairway Park and Indian Springs have quadrupled in the past 22 years. It is unlikely that the alleged illegal immigrant's worker's wages have quadrupled. There surely is another recipient to be found. The only financial information the property owners receive is really an annual demand.. It says : last year the lawn maintenance cost ..... amount, this year it will cost ..... amount. There are a few other categories presented the same way. Then it goes on to say those that last year paid xxx dollars per month, will pay xxxx dollars per month this year. Periodically property owners receive a notice that has a heading of : "Special Assessment" and demanding a sum of money, without any explanation of why , and includes a warning: pay by such and such a date or else there will be interest. This is not unlike mafia or other extortion attempts by other gangs that say, give me this amount of money or else.... petitioner had asked why-which the sin committed and has been singled out for harassment.

The condominium rules include" a right of first refusal clause"(Appendix 1) This first refusal option -c0mmon in many condominium rules- has in the rules for Fairway Park and Indian Springs been re christened "approval " and turned into a business: the associations charge of fee for this. But there is nothing of legal significance therein just harassment. *A Comprehensive Theory of Condominium Tort Liability , A. Freyfogle, 39 U. Fla L. Rev. 877 (1987).* Also a source of income for the members of the boards. Realtors comply with the right of first refusal, and pay the fees so that the corrupt cronies can pocket some money, although private arrangements are routinely made. When someone leaves a name at the gate and says :" my aunt Sue and uncle Harry are going to stay here for awhile, and the name is added to the list of entrants and even secure a chip for them, the bombast of the associations is ignored.

Respondents Nason Yeager et al are a law firm, and one of their -either member or employee named Gregory Scott is the attorney for the associations, and since petitioner is a member and shareholder of the associations arguably he represents petitioner as well. Theoretically there are no legal disputes by and for the associations, other than the grass and flower contract or the pool cleaning contract. They have no other legitimate function, but a lot of illegitimate ones. But then counsel instigates a lot misconduct , fraud , abuse, lies , and injury to nurture their self interest :"billable hours " and money. Their activities are of dubious validity, and are in violation of Florida's Rules of Professional Conduct, but generate billable hours.

Allegedly Respondent Gregory Scott receives $100.000 per year in legal fees, not all for reading the pool service contract, mostly to harass property owners .Counsel plays an interesting three fold game of deceit or something akin to that by advising the associations who have a fiduciary duty to the property owners not to squanders their fees on matters other than the maintenance, that they need not comply with the State of Florida Condominium Rules violating Florida Bar Rules of professional conduct Rule 4.-1.13 and still collect billable hours for the bad advise given. In Florida many of the condominium disputes include as defendants the attorneys for the association.

In the autumn of 2001 because of 9/11 the Florida winter season looked very grim there was despair. Cancellations were coming in in droves and the outlook was dismal because among other reason for same people feared flying. But "snowbirds" drive their cars to Florida or take the "auto train". The realtor working on petitioner's behalf located a tenant whose tenancy was to start on January 1, 2002, through March 31, 2002. The rental was going to generate $7.000 in rent, for three months, in addition the tenants pay all the utilities , Florida taxes and other fees, and the extorted fee for the right of refusal. The intent to lease was signed in late September (Appendix 2)and a deposit was provided. The tenant was represented by an agent from the city of Boca Raton. The tenants were a retired school teacher and her husband a dentist. As time neared the tenant provided a variety of checks for fees, and on November 5, 2001 the realtor submitted the tenants names in compliance with the "right of first refusal" , which has to happen in 30 days. They either accept petitioner's tenant or provide a substitute , so that petitioner's property right is not compromised.(Appendix 1) Petitioner was getting the condominium ready had it cleaned, the carpets shampooed, the appliances and air conditioner inspected and petitioner guaranteed a temporary country club membership for the tenant .Petitioner was going to Berlin and Brussels on December 24 and wanted it all to be ready, and had suggested to the realtor that she tell the tenants they may come earlier to welcome the New Year in Florida Although expecting routine acceptance, the two agents began to be a bit concerned. Petitioner's agent went to the association office on December 8 , 2001 to inquire about it, and was told that it will be signed over the weekend.

The realtor continued to follow up and the two associations and "our counsel" never quite provided a straight and direct statement about the "first refusal" whther it would be petitioner's tenant choice or a substitute. There was some back and forth and finally petitioner was informed that she owes $844 to the associations, and unless she pays that, the tenant would not be permitted entry. No documents were provided as evidence of this debt, but rather:" because I say so". If petitioner were close by, and not committed to be in Europe she would have sought the assistance of the Palm Beach County Sherriff and personally escorted the tenants in and out since what was asked of her was pure lawless extortion, and no one without just cause, not the least those in contractual servitude may alienate petitioners property. Because it would cause harm and greatly inconvenience numerous people , on December 17, 2001 petitioner dispatched a check for $844 by overnight carrier to the realtor. (Appendix 4) The realtor took the check to the association office ,and inquired when she may inform the tenant's representative, that they may continue packing their car for the drive to Boynton Beach. The realtor was told that the board had to "think about it' As is the custom, the tenants prepay the seasonal rental, security deposit, taxes, and other fees which is held in escrow by the real estate agent. A further manifestation of the despicable and putrid thinking by the members of the board how abusive and corrupt they are ,and how they overstep their authority, how they have harass people, this petitioner especially, was yet to come. On December 19, 2001 the realtor received a faxed demand to invade the escrow-which is a crime -and send each association a check for $480. (App. 5) otherwise the tenant would not have entry to the rented apartment. **These corrupt sleazy crooks** were not going to let them enter. This was more than one could tolerate-asking someone to commit a crime on their behalf. On December 20, 2001 the realtors and the tenant wre notified that they did not have a place to spend the winter months in Florida. The perfidy and depravity of all respondent is outrageous and shocking. They do not care: the boards of the associations obviously knew that they would be liable for their misconduct and for petitioner's loss but they do not care: they are spending the associations money ,. not their own therefore they may indulge their dementia. As for "our counsel- they just know billable hours". Respondents unlawfully occupied petitioner's property deprived her of same, defamed her and caused her harm and loss because she resisted extortion. The Indian Springs and Fairway Park associations manage the property ; ownership

i.e. the unit owners own the property .All the respondents in their collective misconduct and malfeasance of interfering with petitioners property rights seem to have forgotten that. This represents impermissible and unreasonable alienation of title. The respondents are in contractual servitude only. *Condominium Tort Liability. 39 Univ. of Fla L.Rev 872 (1987).* In December 2001 petitioner sought injunctive relief and specific performance relief from the Palm Beach County Court. The Court denied , holding that petitioners relief is damages.

The misconduct and malfeasance by all the respondents in the matter a instant is also not in the public interest. While these men may have sat around chuckled and rejoiced that they harmed the petitioner and "they showed her who is boss, and that asking for financial records, and not sending money when we demand it, and asking why, and she will not do it again, their actions offend and harm the public interest. The state and everyone in it has an interest in promoting itself, in people coming, spending money, acquiring property, creating employment opportunities creating additional tax revenue , and believe that their interests are protected according to law. This corrupt "condominium mafia" does nothing to further those goals, and just offends those goals.

ARGUMENT

Petitioner's Constitutional rights to substantive due process, equal protection and her right to property were violated. They were violated in the District Court, and the Eleventh Circuit Court of Appeals. Like wise both Courts misstated and misapplied the holdings of this Honorable Court .

THE ELEVENTH CIRCUIT COURT OF APPEALS VIOLATED PETITIONER'S RIGHTS TO SUBSTANTIVE DUE PROCESS, EQUAL PROTECTION, AS WELL AS HER CIVIL RIGHTS.

The eleventh Circuit Court of Appeals did not review this appeal de novo therefore the Court suborned violation of petitioners equal protection and substantive due process rights. The court noted that petitioner did not assert this violation in the lower court is ill stated.

The instant claim was dismissed by the District Court on summary adjudication misstating and misinterpreting holdings by this Honored Court, which was not foreseeable to petitioner. hence how could she file allegation, on future actions by the Court. Petitioner was discriminated against by the Eleventh Circuit Court of Appeals because she is a pro se litigant . This is a Constituional violation to substantive due process and equal protection. In *Bolin v Story 225 F3rd 1234 (11th Cir 2000),* quoting the testimony of former Chief Judge s Joseph Hatchet and Gerald Tjoflat at a march 28 1998 public hearing of the Commission of Structural Alterations for the Federal courts of Appeal in Atlanta Georgia, stating "that it has been cleraly established that appellate court judges in the eleventh circuit routinely do not read pro se briefs. They read the summaries made for them. There is nothing in the Constitution that permits two classes of litigants, differentiated by occupation. This policy also represents unacceptable disdain and disrespect by the Court of Appeals for pro se litigants. Different standards are unacceptable. Article III of the Constitution entitles petitioner to have Article III judges read and hear her appeal, and her plea for relief. Subordinates and court employees within the system as "summarizers" is not acceptable. This policy also sends a message to the "readers" of lesser worthiness of the issues before them. Who ever summarized the instant appeal did not pay attention to details , made inapplicable statements , and reflected a desire, if not also a direction to affirm the lower court

THE ELEVENTH CIRCUIT COURT OF APPEALS VIOLATED PETITIONER'S RIGHT TO ORAL ARGUMENT.

Federal Rule of Appellate Procedure # 34 sates that "oral argument must be allowed in every case unless a panel of three judges who have examined the briefs and record unanimously agree that oral argument is unnecessary. Any statement in the brief about the need for oral argument will be given due consideration. The decision to dispense with oral argument must be unanimous. Petitioner had requested oral argument. It is noteworthy that since pro se appeals are read by individuals other than the judges, it is unclear who decided to dispense with oral argument. The Court dispensed with oral argument in the matter at instant without prior notice, therefore there was no opportunity to object, although there is not reason to believe it would have made a difference. The *Report of the Commission on Revision of the Federal Court Appellate System Structure and Internal Procedure : Recommendations for Change (1975)* noted that many judges find the opportunity for a personal exchange makes

a difference in the result. Petitioner was disadvantaged by being denied the opportunity for oral argument. The circuit rule that all panel judges must read the briefs and the record before dispensing with oral argument is inconsistent and in conflict with the testimony by chief judges Hatchet and Tjoflat that pro se briefs are not read by the Article III judges . This suggests that the instant appeal was decided by court employees or whoever the designated "readers were. This is unconstitutional, and a gross violation of petitioner Fifth and Fourteenth Amendment rights.

THE COURT OF APPEALS DID NOT ADDRESS THE CORE ISSUES: REAL PROPERTY TITLED OWNERSHIP RIGHTS VS THOSE IN CONTRACTUAL SERVITUDE

It is clearly evident that whoever read petitioner's appeal, was trying hard to affirm the District Court. It may however be that this individual - there is confirmation it was not an Article III Judge from the chief judges- did not understand the substantive issue of the claim: an unlawful alienation of a title holders real property by those in voluntary contractual servitude. Also whether a person in title to real property must first comply with extortion attempts from those in servitude, to have free access and enjoyment to ones own property.

A condominium is a form of concurrent real estate property ownership that runs with the land. Condominium ownership is defined in spatial terms. Each condominium owner holds title to a particular unit, and an undivided interest in the common elements as a co-owner with all the other unit owners . Common elements include the land, the structural parts of the buildings, and the common recreational areas and venues. Real property ownership is generally inviolate against all except those with superior title , and those rights are guaranteed by the laws and the Constitution of the United States. Every property owner in Indian Springs and Fairway Park are members -shareholders of the condominium and maintenance associations, whose duty it is to manage the common areas of lawns, parking, the streets, the sports venues. They are in voluntary contractual servitude to the property owners. Nevertheless the Indian Springs and Fairway Park associations have given themselves permission to act like a government or some other authority-perhaps divine , accord themselves authority over the ownership rights of the property owners in title, and alienate petitioner's property. Self created entitlement.

The Indian Springs and Fairway Park associations have created a small business for themselves. Whereas the condominium rules provide the associations with the right of first refusal of a lease or purchaser, (Appendix 1) after 30 days they must either agree with the choice submitted or provide an alternate, the associations have renamed this process the "approval" process and each charge a fee. Pursuant to the condominium rules and their 30 day window, thereafter they are simply responsible to the property owner for the loss. It has been two years that petitioner's apartment has not been leased because of respondents misconduct , and they have made no attempt at compensating petitioner for her losses. The Eleventh Circuit in its affirmation said :"well they could approve a tenancy and they did not and it was within their authority". The reader who summarized this did not pay attention or understand.

This Honorable Court has held that property rights are also liberty rights and the due process clause of the Fourteenth Amendment has both procedural and substantive content. In a series of cases all different in factual content this court articulated a right to due process. In *Goldberg v Kelly 397 US 254, (1970), Perry v Sindermann, 408 US 593 (1972), Board of Regents v Roth 408 US. 564 (1972), Fuentes v Shevin, 407 US 67 (1972), Connecticut v Doehr US 1 (1991).* Therefore if the associations have anointed themselves into some governing authority, they must comply with the law. They had a duty to provide all the documentary evidence that there is a debts outstanding, when it was created, comply with 15 USCA #1692, "The Fair Debt Collection Act " and if petitioner did not comply than pursue the legal avenues available to everyone. Seizing and occupying petitioner's property was lawless extortion and respondents must be accountable .It is unfortunate that the Eleventh Circuit Court of Appeals reader did not notice all of the above mentioned. The eleventh Circuit was also silent on the dismissal of this claim by the District Court , and doing so on two conflicting holdings.

In the answer to petitioner's claim, respondents did not deny petitioner's allegations, therefore that averment must stand. They did however fill numerous pages with diversionary statements and cases dealing with breweries, finance companies, and automobile dealerships., a securities dealer. All this to create confusion in the court, a paper overload and billable hours,

THE DISTRICT COURT DISMISSED THE CLAIM ON TWO COUNTS WHICH ARE IN CONFLICT WITH EACH OTHER

The District Court dismissed the claim on two issues; lack of federal jurisdiction based on the amount in controversy , and through granting a Rule 12 (b0(6) motion to dismiss for failure to state a claim. These holdings are inconsistent with the facts articulated by the court in it's order, and they are in conflict with each other.

FEDERAL JURISDICTION

Petitioner claimed complete federal jurisdiction based on diversity of citizenship and the amount in controversy. Diversity because petitioner is a California citizen, and the amount in controversy meets the $ 75.000 requirement. Petitioner having lost $10.000 in rental income is seeking same, plus additional expenses and damages.* Petitioner is seeking punitive damages and damages in tort as well for all the other harms and injuries. petitioner claimed $75.000 each from the three respondents in the title of the claim, $40.000 each from the various members of the boards of the associations and the law firm. This involves an additional 22 or more individuals .Although respondents created an avalanche of ridiculous theories why there is no diversity in citizenship, the District Court held there is diversity in citizenship. The Court however took issue with the amount in controversy.

THE STANDARD APPLIED BY THE DISTRICT COURT REGARDING THE AMOUNT IN CONTROVERSY TO MEET FEDERAL JURISDICTION REQUIREMENTS , CONFLICTS WITH HOLDINGS BY THIS HONORABLE COURT. THE DISTRICT COURT SOUGHT TO PREEMPT THE JURY.

Federal Courts have generally considered the amount in controversy in a complaint to be from zero to whatever the complaint says.
In *Horton v Liberty Mutual Ins. Co 367 US 348 (1961),* The Honorable Justice Black speaking for this Honored Court noted : "the general federal rule has long been to decide what the amount in controversy

*Petitioner has continued to incur additional significant losses by not being able to lease the apartment . Obviously realtor do not wish to embroil themselves and their clients in the horrible events that took place., although petitioner had received a lot of encouraging messages from realtors, and residents of Indian Springs with "go get these miserable crooks" or "I have been waiting for years someone to get them".

is from the complaint itself". In *St. Paul Mercury Indemnity Co v Red Cab Co, 303 US 238 (1938),* this Honorable Court held that the determinant of the amount in controversy is plaintiff's good faith claim, and that to justify dismissal it must appear to a legal certainty that the claim is really for less than the jurisdictional amount. The inability by plaintiff to recover the jurisdictional amount or any amount does not show bad faith or oust the jurisdiction. For 150 years this Honorable Court has held that the amount in controversy is what the plaintiff says it is. *Mississippi & Missouri R.R. v Ward 67 US 92 (2 Black 485) (1862), Glenwood Light and Water Co. v Mutual Light , Heat & Power Co. 239 US 121 (1915).*

The dismissal by the District Court is based on flawed analysis and is in conflict with the holdings of this Honorable Court , that the amount in controversy is the amount sought in the complaint. The District Court acknowledged petitioner's $10.000 or more loss, but questioned the amount in damages sought. In doing so the Court preempted the prerogatives of a future jury and it's decision, and noted that the damages could amount to over one million dollars, which a jury is never going to award. The District Court did not know that , nor has the court been privy to the evidence yet. The court based this only on the complaint , a Rule 8 notice pleading. The District Court erred in basing a damage recovery on an "all or nothing at all " concept, zero to over one million dollars. A jury would have a wide range of choices between those two points. There are about twenty two or so respondents, and if a jury award 1 $.2000 from each in addition to the loss already acknowledged by the court, the amount in controversy is met. The "either or" view of damages is error, is flawed, unrealistic, and represents disturbing impermissible bias on the part of the court.

THE DISTRICT COURT APPLIED THE WRONG STANDARD IN GRANTING A RULE 12 (b) (6) MOTION IN CONFLICT WITH THE HOLDINGS OF THIS HONORABLE COURT.

For the purpose of a FRCP Rule 12 (b) (6) motion, all allegations are presumed true, all doubts and inferences are resolved in the pleader's favor, and the pleading is viewed in the light most favorable to the pleader. *Allbright v Oliver, 510 US 266, (1994), Sheuer v Rhodes, 416 US 232, (1974), Bernheim v Litt, 79 F 3rd 318, (2nd Cir 1996), Brooks v City of Winston Salem, 85 F 3 rd, 178, (4th Cir 1996).*

A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Conley v Gibson. 355 US 41 (1957).* This Honorable Court has held that the legal sufficiency to avoid a Rule 12 9b)(6) motion to dismiss is the truth of the material facts as alleged in the complaint. *Summit Health Ltd. v Pinhas, 500 U.S. 322 (1991).* "On this complaint we cannot say beyond doubt that (petitioner) can prove no set of facts in support of her claim which would entitle her to relief". *Davis next friend of La Shonda D v Monroe County Board of Education et al , 526 US 629 (11th Cir 1999).* In *Akos Sierkiewiccz v Sorema , 534 US 506 (2000)* this Honorable Court held that it is incongruous to require that a plaintiff in order to survive a 12 (b) (6) motion, to prove more than he would to succeed on the merits, when the complaint satisfies the requirements of FRCP 8(a) notice pleading, giving the opponent fair notice as to the basis of the claim.

The dismissal by the District Court based on the amount in controversy and the failure to state a claim are unwarranted, inaccurately interpret the facts , are in conflict with each other, in conflict with the holdings of this Honorable Court and can only be attributed to gross impermissible bias by the Court. It is otherwise just not credible . In challenging the amount in controversy the court recognized petitioner's loss of $10.000, it is the amount of damages that the Court challenged. Therefore to then say there is a failure by petitioner to state a claim , when this Honorable Court has articulated that the standard to survive a 12 (b) (6) motion is notice that has been filed and the basis of the claim, is error and unacceptable bias.

DESPITE A FIDUCIARY DUTY THAT COMPELS OTHERWISE, THE RESPONDENT ASSOCIATIONS USE THE ENORMOUS AMOUNT OF MONEY COLLECTED AS FEES, AS THEIR PRIVATE PIGGY BANK SPENDING AT WILL FOR POLITICAL INFLUENCE AMONG OTHER

Respondent associations are a big business that functions like the "mafia" or other corrupt organizations and associations like that,. They have violated the law for decades, never ever provided an annual financial statement as required by law, or any other form of disclosure. Fairway Park which one of about twenty subdivisions of Indian Springs takes in about $750.000 per year in dues without ever having accounted where this money gone. Indian Springs has an alleged annual intake of $10.000.000-$12.000.000, again without ever having provided any required accounting or financial statement.

To the men that oversee the spending of these funds , men who prior to retirement where insurance salesmen in New Jersey, or shopkeepers, this is a very heady and seductive event leading them to distort the reality of their power and to uncontrolled abuse. After all, whatever they do, there is legal counsel they do not have to pay for with personal funds. Consequently the misconduct is rampant , both financial and otherwise their conduct is secretive, they harass anyone they wish , often with impunity. Petitioner has previously been harassed , suffered harm and financial loss, but because of the time or expense it would involve could not hold them accountable .It is a known fact that malfeasants select the individuals they wish to harm. The State of Florida Statute # 718.111 governs all issues related to condominiums . The statute mandates annual verified accounting statements, along with four individual property account statements annually. There has never ever been one provided since the inception of the development. Petitioner has periodically demanded an accounting which of course was never complied with and led to requital. It would have required legal action on petitioner's part, which she could not engage in at the time. But the associations nevertheless have petitioner on their harassment list just for seeking some accounting. Just like the mafia: they retaliate against those that ask questions. These collected funds in addition to paying for pools and flowers, are the piggy bank of the association board members, who among other, make political campaign contributions to candidates on all levels, but certainly local.

ON INFORMATION AND BELIEF DISTRICT COURT JUDGE HURLEY WHO DECIDED THIS MATTER, HAD RECEIVED CAMPAIGN CONTRIBUTIONS FROM RESPONDENTS.

Before becoming a District Court Judge in 1994, Judge Hurley has been an elected office holder in Palm Beach County. Starting in the early 1970 ties with running for assistant county attorney, and thereafter every couple of years another office to seek, another campaign, another election. He held a number of local elected positions On information and belief , the respondents contributed to Judge Hurley's campaign funds. As a result petitioner believes that judge Hurley was biased in favor of respondents and the District Court decision reflects that. The District Court decision is inconsistent holding that a) the amount in controversy is not met because the certainty of the claim is only for $ 10.000, b) granting a motion to dismiss because there is no claim

on which relief can be granted. These holdings contradict each other, and are in conflict with the holdings of this Honorable Court. Judge Hurley was biased. This Honorable Court has noted that for 50 years it has held that a person is entitled to an unbiased court. *Tumey v Ohio 273 US 510, (1927), Neder v United States , 119 S Ct. 1827 (1999).* Petitioner was entitled to an unbiased court.

NASON, YEAGER,GERSON, LIOCE, AND GREGORY SCOTT
The above named respondents are a law firm that is hired to represent the Fairway Park condominium association, along with the other subdivisions and the Indian Springs maintenance association. It is a fairly common occurrence in the state of Florida where condominiums are ubiquitous to include the representing counsel, or law firm as equally responsible for the misconduct of the associations because of the roles they play in same, and they pay damages. That is also true in other circuits but is ubiquitous in Florida because of the prevalence. Condominium and maintenance associations are voluntary associations limited to the property owners in the developments, who are both shareholders and members. Boards of these associations are property owners, shareholders, elected in theory at least- to be on the board to be responsible for the maintenance of the common areas, and are in contractual servitude to the property owners. The election process is murky, because the same people have been on the board since the creation of the development, and leave by death only. The described large amounts of money have perverted the association boards, into believing themselves to be an omnipotent governing authority ignoring the laws, and secure that they have legal representation they personally do not pay for. The law firm , and a man named Scott who is the "account holder " so to speak, whose job is to review pool and lawn contracts, and other maintenance, expanded his billable hours and has fostered, encouraged and suborned their lawlessness. Nason et al are aware that their clients are in violation of the Florida condominium laws. They never account for the money that is collected because they are abusive and lawless. They are in constant litigation, and the members who by law have to be notified, never are.. On information and belief Nason et al receive $100.000 per year to cover up the lawlessness. Nason , Scott et al represent all the shareholder members, and have an ethical and professional duty to represent them responsibly. If they are unable to do so, than they must withdraw, not

cheat. Scott has persuaded himself and tells so to others that he represents the "corporation", not the members. Nonsense. There is no corporation. The property owners association differs from a corporation because it is not an entrepreneurial enterprise. "*Law of Property Owners Associations" R. Natelson , 429 (1989)* . Gregory Scott through his irresponsible and unprofessional conduct shares the blame for the trespass and alienation of petitioner's property and are therefore equally liable for damages.An attorney member of the Bar ,pursuant to the code of ethics and the Florida Bar rules of profeessional responsibility is supposed to counsel clients to be respectful of the rights of others and obey the law, and not cause harm to to others. Despite Gegory Scott's self determined status aas "corporate counsel" , the reality is otherwise. He is all memebers'c counsel, and their monthly maintenance fees pay for his billable hours. He knew that alleging a debt on petitioners part, was bogus, an extortion attempt, and he provided no evidence otherwise. . He knew that his fraudulent shenanigans would cause harm and loss to petitioner.

THE FAIR DEBT COLLECTION PRACTICES ACT:
15 USCA #1692 a, b, c, j, k.

Had there been a legitimate debt owed by petitioner to respondents there is a process that needs to be followed, which includes accurate evidence of same, and what, when , where it was incurred. Instead respondents engaged in an extortion ambush . Pay ,or else we will take your property.!5 USCA #1692 a,b,c,j,k, provides for statutory damages for violations of this act, which includes the liability of attorneys involved.*Newman v Boehm, Pearlstein & Bright Ltd. , 119 F 3rd, 477 (7th Cir. 1997), Crossley v Lieberman 86 F2nd 566 (3rd Circ. 1989), Sandlin v Shapiro & Fishman 919 F, Supp 4131996) ,Ares v Cypress Park Garden Homes, 696 So 2nd 885 (Fla App 1997)* Nason Yeager ,Gerson, Lioce and Gregory scott are all liable to petitioner.

THERE ARE COMPELING ISSUES OF THE PUBLIC INTEREST IN THIS MATTER

The malfeasance evidenced in the matter at instant did not exist in a vacuum Rather it reached across the country into three or more states with consequences in each, and for everyone involved. The loss of the rental income was obviously noticed, and that affected petitioner's money spending on other goods and services at home in California. The tenants from New York City, who came to Floridaf

in August 2001 to locate a suitable apartment for the winter month, invested time, effort and money in that endeavor. Relying on the ordinary commerce and real property business rules of conduct, and assuming all the parties to the transaction were responsible , they signed a contract. This was facilitated by realtors representing the tenant and a realtor representing petitioner, which bridged the 3500 mile divide. The tenants were satisfied, petitioner was quite satisfied, the realtors were going to earn their commissions, and significant beneficiaries were in the state of Florida, and the State of Florida itself. The state is anxious to increase tourism , to increase the part time or full time population, especially a targeted population. This specific population requires no services, does not burden law enforcement, pay a tax to the state for being there , in addition to the sales taxes, and come with time and money to spend. They are consumers of restaurants, malls, sports, entertainment, other personal services, and even become investors in the business of the state, providing employment opportunities for the population. The state of Florida legislature has created rules and laws protecting the interests of condominium owners because they are a big part of the state's economy through the owners or the occupiers. But for more than two decades since the Indian Springs development was created with it's subdivisions of Fairway Park and other, the rules and laws have been ignored. Respondents have created their own.

In *Sierra v Morton , 405 US 727 (1972)* this Honorable Court has held that a plaintiff must show a direct and personal injury or harm by the action he/she is complaining about to have standing , and petitioner-plaintiff has proven that. But petitioner also believes that the circumstances of this complaint permit petitioner to raise the issue of the rights of others pursuant to *Singleton v Wulff, 428 US . 106 (1976),* and *Craig v Boren 429 US. 190 (1976).* Respondents should be held liable to the realtors who lost commissions , to the tenants for any harm and expenses they incurred in connection with this shameless and abusive incident. " The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. " *Marbury v Madision , 5 US (1 Cranch) 137, (1803).*

CONCLUSION

Petitioner's right to equal protection was violated by the Eleventh Circuit Court of Appeals where Article III judges do not read pro se appeals. This honorable Court has held in *Regents of University of California v Bakke ,438 US 265 (1978)* that "guarantee of equal protection cannot mean one thing when applied to one individual and something else when to another." The Court of Appeals did not review the appeal de novo; in fact if there was a standard review, it was to trivialize. Petitioner's due process rights to procedural and substantive due process were violated. There can be no right to liberty without rights to property Substantive due process applies to deprivation of interests in property and liberty , both protected by the Fourteenth Amendment. *Goldberg v Kelly, 397 US 254 (1970), Perry v Sinderman, 408 US 593 (1972), Board of Regents v Roth, 408 US 564, (1972).* Once there is deprivation of property or liberty in order to determine the necessary procedural safeguards, this Honorable Court has articulated in *Mathews v Eldridge , 424 US 319, (1976)* that there are certain considerations to be included, such as : a) the private interest affected b) the risk of erroneous deprivation of such interest, c) the government interest. Petitioner's property was essentially seized and occupied. Unless this Honorable Court intervenes, petitioner will be left without redress for her loss. Petitioner believes that there is a strong government interest in real property ownership, but especially this form of ownership-condominium ownership in the state of Florida where this state also has an economic interest to further. There is also a protected interest in interstate real property transactions.

For all the above noted reasons this Court should grant this Petitions for Certiorari.

July 19, 2003

Submitted

Pepi Schafler BA, MSSS, JD, PhD

APPENDIX

Order denying en banc review

Order Eleventh Circuit Court of Appeals affirming District Court

Order District Court

State of Florida Condominium Statute # 718.111

Indian Springs and Fairway Park rules of "first refusal"

Application for tenancy and lease

Communications with Respondent Nason, Yeager et al

The demanded check fo $ 844

The extortion and escrow invasion attempt from the realtor

Notification to tenants and realtors of impossibility of compliance with rental agreement.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No: 02-13317-BB

DR. PEPI SCHAFLER

Plaintiff-Appellant

vs.

FAIRWAY PARK CONDOMINIUM ASSOCIATION
AND EACH INDIVIDUAL MEMBER OF THE BOARD
INDIAN SPRINGS MAINTENANCE ASSOCIATION
AND EACH INDIVIDUAL MEMBER OF THE BOARD
NATHAN EARL NASON et al

Defendants-Appellees

DECISION

The petition for Rehearing is denied .

Entered for the Court; May 6, 2003

s/s Susan Harrell Black

United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No-02-133317 , Non -Argument calendar

March 7, 2003 (Do not publish)

Dr. PEPI SCHAFLER

Plaintiff-Appellee

vs

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual member of the board
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board
NASON, YEAGER LIOCE et al

Before: DUBINA, BLACK and MARCUS, Circuit Judges.

Relevant points:
1. The appellate opinion nowhere mentions that petitioner is the property owner
2. The appellate opinion does not mention that this is about real property rights and improper alienation
3 The appellate opinion discusses business relationship, citing breweries and other major enterprises as on point and analogous to petitioner renting her real property for the winter season.
4. The appellate opinion -whoever wrote it -did not properly identify the relationship of a property owner and the associations which are in contractual servitude to the property owners, and they may not occupy petitioner's property.
5. The appellate opinion says "the association had the right of "approval" and they did not approve .
6 The appellate opinion does not address the two causes on which the the District Court based it's dismissal : lack of federal jurisdiction because the amount in controversy allegedly was not met citing petitioner's entitlement to a lot less than the demand, while also granting a Rule 12 (b) (6) motion for failure to state a claim.
7. The total opinion is incoherent.

AFFIRMED the District Court.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No: 02-80127-Civ HURLEY-LYNCH

PEPI SCHAFLER April 26, 2002

Plaintiff

v

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual member of the board
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board
NASON , YEAGER, WHITE, LIOCE & SCOTT

Defendants

ORDER GRANTING DEFENDANTS" MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION AND FOR FOR FAILURE TO STATE A CLAIM, AND DISMISSING COMPLAINT

This is a 10 page decision largely analyzing and responding to respondents' replies to the complaint which were diversionary in nature, making all sort of ridiculous assertions.

The conclusions and the opinion of the Court:

The Court said it must dismiss pursuant to FRCP Rule 12 (b) (6) for failure to state a claim on which relief may be granted.
The Court continued If plaintiff were successful in some of the unlawful acts alleged , the court finds that no reasonable jury would award the damages that plaintiff seeks which could amount to $1.000.000 or more, since plaintiff suffered over $10.000 in loss,. therefore plaintiff can not reach the jurisdictional amount. The court noted that plaintiff did not provide evidence in her complaint for some individual wrongful act alleged.

Complaint dismissed.

s/s DANIEL T.K. HURLEY
District Court Judge.

FLORIDA REAL PROPERT LAW
CONDOMINIUMS: RULE 718.111

718.111 The term association means the entity responsible for the operation of the common elements owned in undivided shares by the property owners.

The associations must maintain accounting records in accordance with good accounting practices for a minimum of seven years.
a. accurate , itemized and detailed records of all receipts and expenditures
b. a current account and a monthly, bimonthly or quarterly statement of the account for each unit
d. all contracts for work to be performed ; bids for work to be performed

Financial statement. Within 60 days following the end of the fiscal or calendar the board of the association shall mail or furnish by personal delivery to each unit owner owner a complete financial report of actual receipts and expenditures for the previous 12 months. Ther report should show receipts by each account and expenditures by each as well, including but not limited to:
(a) costs for security
(b) management fees and expenses associated with same
(c) taxes
(d) costs for recreational and sports facilities
(e) costs for refuse collections and utilities
(f) costs for lawn care and building maintenance and repair
(g) insurance
(h) costs of salaries and administrative expenditures
(i) general reserves , maintenance reserves, and depreciation reserves
(j) all other, including large purchases, judgment etc. etc.

INDIAN SPRINGS

FAIRWAY PARK CONDOMINIUMS

Condominium documents.

Each property owner shall own an undivided interest in the common property of Fairway Park, and Indian Springs.

SECTION XXII

In order to assure a community of congenial and responsible* apartment owners and thus protect the value of the apartments , the following rules shall apply:

1.Sale or lease

No apartment owner may dispose of his apartment by sale or lease without approval of the board of the association which approval shall be obtained in the following manner:

a. Written notice to association shall be given each and every time an apartment owner intends to lease or sell his/her apartment to include the name and address of the intended purchaser or lessee, the terms of the transaction , and any additional information that may reasonably be requested

b. The association has 30 days after receipt of the notice to either approve the proposed tenant or purchaser, or furnish to the apartment owner a purchaser or lessee selected by the association The terms of the substitute lessee or purchaser shall be as favorable to the apartment owner as those provided in the notice to the association. The purchaser or lessee chosen by the association shall have 30 days to complete the transaction . **If the association approves the offering, such approval shall be in writing and in recordable form, signed by two directors, and delivered to lessee or purchaser. Failure of the board to grant approval or to furnish a substitute lessee or purchaser within 30 days after the notice is received shall constitute approval , and the association is required provide the lessee or purchaser a written approval signed by two directors.**

* no investigation is done, other then providing identity information and assuring that no children under 18, and the tenant-purchasers age. They prefer them to be over 50.

Application for occupancy

Lowell Unter DDS , retired Dentist age 70
Harriett Goodhart. , retired teacher age 67
Address: 75-64 195th Street, Flushing New York,

Application dated October 28, 2001

*The Indian Springs maintenance association and the Fairway Park condominium association have impermissibly decided one nice day to fill their piggy banks by charging a fees for this "right of first refusal ". therefore the following checks were attached and submitted :

* Citibank check number 2807, dated October 28, 2001 amount $50 to Indian Springs maintenance association signed Unter and Goodhart

Bank of New York Check number 1347 , dated October 28, 2001 amount $50 to Fairway Park Condominium Association signed Unter and Goodhart.

APPLICATION FOR TENANT'S ONE TIME TRIAL COUNTRY CLUB MEMBERSHIP PRIVILEGES

Name of Indians Springs homeowner: Dr. Pepi Schafler
Indian Springs address: 5780 Fairway Park Court #204
other address: 642 Preakness Drive , Walnut Creek, California
Lease period 1.1, 2002-3.31 2002 (lease attached)

Declaration by home owner: I acknowledge that I am responsible for unpaid club charges and damages to the club , if the tenant hoes not pay them s/s Dr. Pepi Schafler

Declaration by tenant: they assume responsibility for all charges and to comply with the rules. s/s Unter and Goodhart

Date November 7, 2001

RESIDENTIAL LEASE

Between the owner Dr. Pepi Schafler and
tenants: Lowell Hunter and Harriet Goodhart
for Apartment 204, 5780 Fairway Park Court, Boynton Beach,
Palm Beach County Florida.

Monthly rental : 2.200 dollars
security deposit 1 month rent
tenant pays all utilities,
tenant pays Florida bed tax. and other incidental fees.

s/s Harriet Goodhart
Lowel Hunter
Pepi Schafler

Dated ; October 16, 2001

DR.. PEPI SCHAFLER
642 Preakness Drive
Walnut Creek, California , 94596

December 17, 2001

Gregory Scott
Nason Yeager, et al
1645 Palm Beach Lakes Blvd.
West Palm Beach Fla, 33401

Via fax

Re: Rental of Apt 204, 5780 Fairway Park Court

Dear Mr. Scott:

I am shocked at your professional negligence, irresponsibility, lack of concern , if not also misconduct regarding the tenancy in the above identified property. What are you thinking? On November 5, 2001 the realtor submitted the proposed tenants names, a rather routine matter. There had been no response for one month. The realtor contacted the office and was told " you mean the lawyer has not notified you"? The clerk was rather stunned at your negligence. How was someone to learn things :from the tooth fairy? the bogey man? What are we members paying you for? This morning I was informed by the realtor that ISMA is holding up the tenancy "approval" because they allege that I owe some fees. To the best of my knowledge ISMA has no right to have an opinion about this , but also I do not owe any fees. Provide the records and if I owe any fees, I will pay them immediately. For 20 years I have requested financial statements , received none as yet , and was harassed for asking. To the best of my knowledge the tenants are packing , loading their car to drive to Florida . Let me remind you again of the consequences of the shenanigans that I believe you instigate : the tenants will not have heir chosen and contracted for place to spend the winter, I will lose a significant amount of money in the lost rental and other , two realtors will lose commissions , the country club will have lost money and a member, the State of Florida will have lost tax revenues and business income through the plentiful spending by these "snowbirds", tourism will suffer. Should anyone be pleased that their association fees pay for your "wisdom"?

Sincerely
s/s Dr. Pepi Schafler

CHECK

Washington Mutual Bank check number 935

Dated: December 17, 2001

To: Indian Springs maintenance association

amount : 844 dollars

name on check: Dr. Pepi Schafler, signed by same.

DEMAND THAT REALTOR INVADE THE ESCROW, COMMIT A CRIME, AND SEND RESPONDENTS MONEY

From: Vicki Martin
Associastion's Office Manager
Fairway Park,& Indian Spring

December 20, 2001

To: Linda Chasis
Century 21-Sunland Realty
Via Fax To: 561-439-5475

Re Pepi Schafler , Disapproval of lease by Indian Springs maintenance association.

Comments:
Below are the fees that Pepi Schafler owes the attorney:

Fairway Park attorney fees $450.00
Late fee 10.00
Total due $460.00

Indian Springs main. assoc: $500

2 separate checks made out to the prospective associations please

cc: Gregory Scott

Dr. Pepi Schafler
642 Preakness Drive
Walnut Creek, California 94596

December 20, 2001

To: Linda Chasis
Century 21-Sunland Realty

Re: 5780 Fairway Park Court, Apt 204
Rental to Goodhart and Unter

Dear Linda:

I am really sorry that things did not work out and yet you tried soo hard , and worked so diligently. I hope you understand that I can not submit to this terrorism. They have always terrorized me because they believe that I am always challenging them, asking questions they do not want to answer, and am not intimidated by them. This last is a clear conspiracy.

The Viagra Mafia of the Condo associations and ISMA (Indian Springs)will be held accountable in the future. On my return I will move in the direction I need to go. As Ronald Reagan used to say: "it is not over until the fat lady sings".

I continue to appreciate your being wonderful.

As ever, pepi

Dr. Pepi Schafler
642 Preakness Drive
Walnut Creek, California 94596

December 20, 2001

To: Arvida Realty Services:
Boca Raton, Florida

Re: 5780 Fairway Park Court ,Apt 204
Rental to Goodhart and Unter

Due to circumstances not under our control the above rental from 1/1 2002-3/31 2001 will not be able to go forward.

The fault lies neither with Linda Chasis who is a wonderful person , who has tireless and extremely diligent in this matter , nor with me. The fault lies with the terrorism of the Viagra mafia of the Fairway Park and Indian Springs associations. If I were living in Florida rather than California, I would escort the tenants in with the assistance of a Palm Beach sheriff's deputy. But I am not, so in the future it will be federal court for them.

I am indeed truly sorry about this development.

Very Truly Yours
Pepi Schafler.

FILED

03 537 JUL 25 2003

SUPREME COURT OF THE UNITED STATES

DR, PEPI SCHAFLER

Petitioner

v

FAIRWAY PARK CONDOMINIUM ASSOCIATION and each individual member of the board INDIAN SPRINGS MAINTENANCE ASSOCIATION and each individual member of the board, NASON, YEAGER, GERSON, et al &GREGORY SCOTT

Respondents

On Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

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AMENDED APPENDIX TO PETITION

FOR WRIT OF CERTIORARI

Pepi Schafler, BA, MSSS, JD, PhD
642 Preakness Drive
Walnut Creek, California 94596
Telephone: 925-938-8743
Facsimile : 925-938-6026

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No: 02-13317 BB

DR. PEPI SCHAFLER
Plaintiff-Appellant

versus

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual memeber of the board ,
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board
NASON, YEAGER et al
Defendant -Apellees

On Appeal from the United States District Court for the
Southern District of Florida

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

Before: DUBINA, BLACK AND MARCUS, Circuit Judges

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no member of this panel nor other Judge in regular active service on the Courthaving requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the petition(s) for Rehearing En Banc are DENIED

Enterd for the Court : Filed May 6, 2003

ss Susan H. Black
United States Circuit Judge

[DO NOT PUBLISH]
Filed March 7, 2003

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No: 02-13317
Non-Argument Calendar

D.C. Docket No: 02-80127-CV-DTKH

DR. PEPI SCHAFLER
Plaintiff-Appellant

versus

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual member of the board
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board,
Nason Yeager, et al
Defendant-Appellees

Appeal from the United States District Court
for the Southern District of Florida

(March 7, 2003)

Before: DUBINA, BLACK, and MARCUS, Circuit Judges
Per Curiam:
Pepi Schafler , pro se, appeals the district court's dismissal of her suit for failure to state a claim under Fed.R.Civ.O.12(b)(6) and for lack of subject matter jurisdiction. Her complaint was styled as a "claim for intentional and negligent interference with property rights, trespass to chattel, abuse of authority , failure to meet fiduciary obligation, discrimination, exploitation, attempted extortion , libel , slander recklessness , misconduct and malpractice. " The complaint also asserts Appellees engaged in a civil conspiracy to interfere with her property rights and to extort money from her.

*Appellant argues for the first time on appeal that Appellees are liable under the doctrine of strict liability, under the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. #1996-1998 and the Fair Debt Collection Practices Act, 15 U.S.C. #1692 et seq. and for portraying her in a false light and sexually harassing her. Because Appellant did not raise these claims before the district court , we will not consider them on appeal .**_See Narye v Dean , 32 F 3rd 1521, (11th Cir , 1994)._ Appellant has not reasserted on appeal her claims for breach of fiduciary duty , discrimination , and negligent interference with property rights . Therefore we deem those claims abandoned. See _Rowe v Schreiber , 139 F 3rd 1381, n 1. (11th Cir 1998)_ We affirm without discussion the district court's dismissal of Appellant's claim for trespass to chattel , abuse of authority , exploitation , libel, slander , recklessness, misconduct , and malpractice. Appellant's complaint centers on the allegation that Appellees conspired to interfere with and did interfere with Appellant's contractual or business relationship with her prospective tenants. (1) Because this is a diversity suit we must look to state law. Generally "under Florida law, a cause of action for tortious interference does not exist against one who is himself a party to the business relationship allegedly interfered with ". _Genet Co v . Anheuser Bush Inc. 498 So 2nd , 683 (Fla Dist Ct of App 1986)_ ***

(1) The court notes : We construe Appellant's claim for intentional interference with real property as a claim for tortious interference with a business relationship. See _Tannenbaum v United States , 148 F 3rd 1262 (11th Cir 1998)_ .noting that pro se pleadings should be liberally construed.

* The alleged bias in the 11th Circuit against pro se litigants is highly visible in the first words of the opinion: Appellant's name and her identification as a pro se litigant. The Court of Appeals in this opinion has seriously distorted the substance of this claim and made it almost laughable. Rather disturbing and objectionable. The opinions stated by the court are largely those stated by Appelles and copied from their pleadings.
** The claim was dismissed before the opportunity to amend the other counts. F.R.C.P. Rule 8 requires notice pleading only. The United States Supreme Court has held in _Anton Swierkiewicz_ and other , that an evidentiary standard is not required in a notice pleading. Just a plain notice of claim.
*** This is a ridiculous application and citing by the Court of Appeals -whoever reads the pro se appeals- having copied the holding of this case from Appellee's pleadings. The case involves large businesses-one of the world's largest breweries, and applied it to Appellant 's attempt to lease the apartment he owns. This is frivolous and vapid.

The Appellee associations had a contractual right to approve or reject prospective tenants , see Appellant's Record excerpts , Vol II, Tab 3 at 14, and Appellant 's complaint so concedes * Because Fairway Park and the Indian Springs Maintenance Association were parties to the business relationship allegedly interfered with they cannot be held liable for tortious interference wth Appellant's business relationship. See*Genet Co , 498 So 2 nd at 684* (defendant could not be liable for tortious interference with Plaintiff's agreement, where such agreemen was specifically conditioned on defendant's approval).The district court properly dismissed Appellant's claim against the associations and their individual board members for tortious interference with a business relationship.**Furthermore "a tortious interference claim exists only against persons who are not parties to the contractual relationship." *Cox v CSX Intermodal ,Inc 732 So 2nd 1092 , (Fla Dist Ct App 1999)* Appellant admits that ("Defendants Nason , Yeager et al are hired legal counsel on behalf of the two associations and the member shareholders") Therefore the district court correctly dismissed Appellant's claim against Nason Yeager for tortious interference with a business relationship.** Appellant further asserts Appellees extorted money from her by requiring her to pay $844 in allegedly past due fees.*** Extortion is defined as

* This is completely misstated. The associations have the right of first refusal ; the word "approval "is used for lack of another more acutely descriptive. The right of first refusal approval in this context is included in the condominium documents as a tool of creating a certain homogeneity of populations, not unlawful property seizure. If the associations disapprove they must provide a substitute tenant within 30days. The 11 Court of Appeals did not mention that part of this rule, although included and provided.

** The 11 Cir. Court of Appeals had trivialized the issue the substance of these issues , while simultaneously comparing petitioner's standing as a real property owner of one apartment seeking to sublet ,to large multi state corporation with multiple corporate parties with standing. The court is comparing a 7 year old ones lemonade stand with the Coca cola Corp .It is obvious the court wanted to dismiss. The Court seized on a two word nexus business and tortious and used it to explain everything. The Indian Springs Maintenance Assoc and Fairway Park are property owners as members association in contractual servitude to the property owners. They are not a business or corporate entity.

*** The Court of Appeals focused on the $844 alleged past due fees. More trivializing.. This is analogous to someone being shot and murdered while eating a hamburger , and then focusing on the hamburger. There were no overdue fees, and besides the associations have never ever provided an accounting as they are required to do for a property owner to know whether they owe any money or not. The associations function much like organized crime. They control through terrorizing. Members never ever receive an accounting statement, or evidence of a debt. They are told what they must pay as debt. If they do not they get harassed.

obtaining property from someone else with his consent, but whose consent is brought about or induced by the wrongful use of actual or threatened force, violence, or fear."Fear" means a state of anxious concern alarm or apprehension of harm , and it includes fear of economic loss* as well as fear of physical violence "*United States v Vallejo, 297 F 3rd 1154 (11th Cir 2002).* Appellant's complaint does not allege facts sufficient to support a claim for extortion , and the district court properly dismissed her extortion claims.**
Finally , Appellant contends Appellees engaged is a civil conspiracy. Under Florida law, however "[a}n actionable conspiracy requires an underlying actionable tort or wrong" *Wright v Yurko , 446 So. 2nd 1162 (Fla Dist Ct App 1984).* Because the district court properly dismissed all causes of action that could support Appellant's claim for civil conspiracy, it likewise correctly dismissed the conspiracy claim. Because we conclude Appellant failed to state a claim upon which relief can be granted ***, we need not discuss whether her request for punitive damages properly brings the amount in controversy in her suit above the $75.000 amount required to confer diversity jurisdiction. See 28 U.S.C. 1332.

Affirmed.

* The bias by whoever prepared this decision is so evident, and the statements are so outrageously inappropriate : in noting that to sustain a claim for extortion there must be fear of economic loss. Didn't this reader think that Appellant feared losing the rental income ? Isn't that economic loss?

** Based on what was the dismissal proper? What would be sufficient?

***. Appellant did state a claim upon which relief could be granted. It was denied because of a biased district court, and the bias of the 11th Circuit Court of Appeal against pro se litigants and appellants.

FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

DR, PEPI SCHAFLER

Petitioner

v

FAIRWAY PARK CONDOMINIUM ASSOCIATION
and each individual member of the board
INDIAN SPRINGS MAINTENANCE ASSOCIATION
and each individual member of the board,
NASON, YEAGER, GERSON, et al &GREGORY SCOTT

Respondents

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit

AMENDED APPENDIX TO PETITION

FOR WRIT OF CERTIORARI

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ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

This cause comes before the court upon plaintiff Pepi Schafler 's motion for reconsideration of this court's dismissal order, entered April 25, 2002 . This court dismissed the plaintiff's complaint without prejudice because of plaintiff's failure to state a claim and for lack of subject matter jurisdiction. The court concluded that under the facts alleged , plaintiff's claim could never exceed this court's jurisdictional threshold of $75.000. If plaintiff believes she is entitled to relief based on the alleged actions of the defendants , she must sue in state court. Upon review of the motion for reconsideration, or alternatively motion to amend judgment pursuant to Fed R. Civ P. 59 and this court being fully advised in the premises, it is hereby Ordered and adjudged that plaintiff's motion for reconsideration is denied.

May 15, 2002

ss/Daniel T. K. Hurley
District Court Judge

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION AND FOR FAILURE TO STATE A CLAIM , AND DISMISSING COMPLAINT

This cause comes before the court upon defendants motions dismiss plaintiff's complaint. Upon review of the complaint the motions and responses , and relevant case law, defendant's motions will be granted , and the plaintiff's complaint will be dismissed for failure to sufficiently allege diversity jurisdiction and failure to state a claim.

Background. On February 12, 2002 plaintiff Dr. Pepi Schafler , pro se filed a complaint in this court , styled a "claim for intentional and negligent interference with property rights , trespass to chattel, abuse of authority, failure to meet fiduciary obligation , discrimination , exploitation , attempted extortion , libel, slander, recklessness, misconduct and malpractice. " Defendants Fairway Park Condominium Association, Indian Springs Maintenance Association, and Gregory Scott and the law firm of Nason Yeager et al. were served with the summons and complaint. All three defendants have filed separate motions to dismiss. In her complaint Dr. Schafler alleges that she

owns a condominium : apartment 204, Building 23, located at 5780 Fairway Park Court, Boynton Beach , Florida 33437which is part of a larger development called Indian Springs . Plaintiff's apartment is located in the fairway Park complex. She states that she pays dues to and is a shareholder in the Fairway Park Condominium Association and the Indian Spring Maintenance Association . Nason, Yeager is the legal counsel to the two associations. As a basis for this court's jurisdiction , plaintiff invokes diversity jurisdiction 28 U.S.C #1332 alleging that she is a citizen of California , the defendants are all citizens of Florida and the amount in controversy exceeds $75.000. Plaintiff states that since she does not reside in Florida, she, like other condominium owners in the development, rents out the apartment during the winter months .She states that renting the property is generally permitted , provided the arrangements comply with certain restrictions- namely that the rental be for a minimum of three months, and only one rental per year is permitted . The renters must pay a 10% bed tax during their stay. Fairway Park charges a $50 fee when an apartment is rented. Dr. Schafler contends that last year, (2001) as in previous years she arranged for a realtor to locate a tenant for the apartment. She and the prospective tenants,- a married couple from Massachusetts -signed a lease and deposited money in the real estate company escrow account, paid the bed tax, arranged for a temporary Country Club membership, and had the apartment cleaned . On November 6, 2001 , the realtor paid paid Fairway Park a $50 fee and submitted the tenants names for entry in the gate house records . It appeared to Dr. Schafler , the realtor , the tenants and the renters' real estate agent that all preparations had been made. Plaintiff claims , however that on December 5, 2001 the realtor learned, *that the tenants' names had not been added to the gate records. Apparently the associations prohibited the tenants from renting the unit , thereby causing Dr. Schafler to lose $10.000 in expected rental fees, utility payments and fees in preparing the apartment for rental. Plaintiff seeks compensatory damages in amount of $10.000 the expected rental income. She also seeks punitive damages in the amount of $75.000 from each Fairway Park and Indian Springs, punitive damages and a

*Petitioner's addendum: it is shocking how misstated and distorted the facts of this are presented in this decision. Regrettably , it appears that they are thus presented to to support dismissal. The documents in the appendix, the facts presented, the issues, the dates, the timeline, the rights of the parties -it is all misstated. Judge Hurley has trivialized the issue, and his distortion makes it appear insignificant This was most likely intentional.

malpractice award in the amount of $75.000 from each of the named attorneys , and punitive damages in the amount of $50 000 from each of the individual board members of Fairway Park, and Indian Springs.

Discussion. A standard of review,

A motion to dismiss is appropriate only when it is demonstrated "beyond that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. "*Conley v Gibson 355 U.S. 41, 45-46 (1957)* For the purpose of a motion to dismiss, the complaint is construed in the light most favorable to the plaintiff, and all facts alleged by the plaintiff are accepted as true . See*Hishon v King & Spalding , 4677 US 69, 73, (1984).* See also ***Wright v Newsome 795, f 2nd 964, 967 (11th Cir1986)*"We may not dismiss unless it appears beyond doubt that the plaintiff can prove no set of facts in support of the claims in the complaint that would entitle him or her to relief." Furthermore , the threshold is "exceedingly low " for a complaint to survive a motion to dismiss for failure to state a claim. ** *Ancata v prison Health Servs. Inc 769, f2nd , 700 (11th Cir 1985)* Regardles of the alleged facts , however , a court may dismiss a complaint on a dispositive issue of law. **Pleadings written by pro se plaintiff's are to be liberally construed and held to a less stringent standard than pleadings drafted by attorneys. ****Tannenbaum v United States 148 F 3rd 1262 (11th Cir 1998)* Plaintiff alleges that (1) Fairway Park, Indian Springs and Nason Yeager conspired with each other "not to include this tenants name at the entry gate", (2) extorted money from the plaintiff(3) committed trespass to chattel (4) intentionally, negligently and recklessly interfered with plaintiff's property rights. The complaint also appears to allege (5) breach of fiduciary duty (6) discrimination,(7) libel and slander (8) and legal malpractice. These claims are not contained in well-pleaded counts , but nonetheless this court will examine the complaint to determine whether plaintiff has stated a claim.

Defendants Motion to dismiss

The Defendants move to dismiss the complaint on the grounds that

**The District court has cited these authorities and then crossed them out. Some were decipherable therefore petitioner copied them , but some are not, therefore they were omitted .

*** Petitioner has a law degree. The tone of the court is unacceptably patronizing, and reeks of bias , favoritism and prejudgment.

(10 plaintiff conveyed the condominium to an entity called the Max Family Trust in December 1995, lacks standing to assert a claim based on interference with property rights with respect to that property (2) there are insufficient allegations to establish diversity jurisdiction, and therefore this court lacks subject matter jurisdiction over the case, (3) plaintiff cannot state a claim of interference with a business relationship (4) plaintiff fails to allege facts sufficient to state a claim of conspiracy, extortion, trespass to chattel, breach of fiduciary duty , discrimination, libel, slander and (5) plaintiff is not the client of Nason Yeager et al, therefore cannot state a claim of legal malpractice or negligence

Standing

Defendants Fairway Park and Nason Yeager et al argue that since Dr. Schafler conveyed title of the property to the Max Family Trust by warranty deed on December 21, 1995 , she has no standing under article III of the U.S. Constitution to state claims related to ownership of the condominium because she does not own it. There were no allegations in the complaint that she is either the beneficiary or trustee of the trust. ""Standing is the determination of whether a specific person is the proper party to bring a particular matter to a federal court for adjudication." Edwin Chermerinsky *Federal Jurisdiction # 2.3.1 (2nd ed 1994).*A motion to dismiss for lack of standing is a challenge to the court's subject matter jurisdiction and ability to hear the case. In a response to Fairway Park's motion to dismiss , Plaintiff indicates that she is the trustee of the Max Family Trust , and associations bill her for the trust's dues. This court is satisfied that at this stage -the pleading stage -plaintiff has et forth sufficient allegations to establish standing to bring the action based on ownership of the property. Fairway Park's claim that the trust is the real party in interest is more appropriately couched as a motion to dismiss for failure to allege facts to establish diversity jurisdiction.

Diversity Jurisdiction.

Fairway Park also moves to dismiss this case based on lack of diversity jurisdiction. Fairway argues that (1) since the property held by the trust is located in Florida , and the defendants are citizens of Florida there is incomplete diversity of citizenship, and (2) plaintiff's complaint relies on an unreasonable claim for punitive damages to reach the jurisdictional threshold. . However , plaintiff is correct that for purposes of evaluating diversity jurisdiction, the court looks to the citizenship of the express trust's trustees, who are the real parties to the controversy , and not the citizenship

of the beneficiaries or the trust itself. See *Navaro Savings Assoc. v Lee 445 US 428 (1980) Fed. R.Civ. P 17 a.* It is clear that plaintiff's claim for punitive damages is based in large amount on the jurisdictional amount, as she seeks punitive damages against a number of the defendants , in the amount of $75.000 each. Depending on the number of board members , the punitive damages claim could reach over $1 million , thereby at least ostensibly exceeding the jurisdictional amount of $75.000 (the next sentence is crossed out) This court looks to state law to determine whether punitive damages are recoverable, and if so whether the claimed amount is plausible and greater than the jurisdictional amount. See *Boyd v Homes Legend Inc, 188 f 3rd 1294 (11 th Cir 1999).* If it is possible for a jury under Florida law, to award the amount of punitive damages the plaintiff demands , jurisdiction exists. See *Ryan v State Farm Mut. Auto Ins. Co 934, F 2nd 276 (11th Cir 1991)* See also *Carroll v Merriwether, 921 F Supp 828 , (D.D.C. 1996)* ("When it appears that a claim for punitive damages comprises the bulk of the amount in controversy and may have been asserted solely for the purpose of conferring jurisdiction, the claim must be given particular close scrutiny) This court must determine exactly what claims are asserted . and whether punitive damages are permitted under Florida law for those claims , and if so, whether it is possible a jury could award punitive damages of at least $65.000 in this case (an amount which in addition to the $10.000 in compensatory damages , would satisfy the amount -in-controversy-requirement).Accordingly we must first consider whether plaintiff has stated a claim before may proceed to determine whether the amount in controversy requirement has been met.

Tort of interference with business relationship

The central allegation in the complaint is that the defendants conspired to interfere and in fact interfered with the plaintiff's contractual or business relationship with the tenants, with whom she signed a lease. The elements of the tort of intentional interference with a business relationship are (a) the existence of a business relationship under which plaintiff has legal rights, not necessarily evidenced by an enforceable contract, (b) defendants knowledge of the relationship, (c) intentional and unjustified interference with the relationship by the defendants, and (d) damage to the plaintiff as a result of the breach of the relationship. *Tamiani Trail Tours Inc v Cotton 463 So2d 1126 (Fla 1985).* Nason Yeager moves to dismiss this count on the ground that there can be no tortious interference where the defendant is a party to the business relationship , or has approval rights over a

a transaction that is the basis of the claim. *See Genet Co v Anheuser Busch Inc, 498 So 2nd 683, (Fla 3rd Dist. Ct of App 1986), Ernie Haire Ford Inc.v Ford Motor Co 260 F 3rd 1285, (11th Cir 20010* . Moreover they add , agents and employees of a party to the business relationship or contract cannot be held liable as interfering outsiders. See *Cox v CSX Intermodal Inc, 732 So 2nd 1092, (Fla 1st Dis Ct of App 1999).* ASssuming that the the parties to the business relationship that has been disrupted are Dr. Schafler and the Massachussets couple , since the rental agreement necessarily required the approval of the association , neither Fairway Park, nor Indian Spring can be held liable for interfering with the business relationship. Plaintiff's complaint states that the association has the authority to approve and regulate the condominium owners' renting of their units :" The renting of the property must conform to the condominium and association rules. She also admits that Nason Yeager is the agent of the associations. "Defendants Nason , Yeager et al are hired legal counsel on behalf of the two associations and the member shareholders. (plaintiff is a member shareholder.).Complaint * 3. Therefore this court agrees that the complaint fails to state a claim against any of the three defendants for the tort of interference with a business relationship.

Other claims

Defendants contend that the complaint fails to allege facts to state a claim of civil conspiracy , extortion or attempted extortion, trespass to chattel , breach of fiduciary duty, discrimination, libel or slander. The court agrees that the complaint states no facts that would state a claim. The Plaintiff merely recites these words in the title of the complaint ,. and relies on conclusory statements that "defendants entered into a conspiracy with each other and had decided not to include this tenants name to the entry gate and use this to extort unearned and unjustified money from Plaintiff. All the defendants decided to trespass on Plaintiff's chattel and intentionally , negligently and recklessly to interfere with Plaintiff's property rights and opt for extortion.(compl 12). A civil conspiracy requires (a) an agreement two or more parties, (b) to do an unlawful act , or to do a lawful act by unlawful means (c) the doing of some overt act in pursuance of the conspiracy and (d) damage to plaintiff as a result of the acts done under the conspiracy . See *Florida Fern Growers Assn Inc v Concerned Citizens of Putnam County, 616 So2nd 562, (Fla. 5th Distr. Ct of App. 1993), Wright v Yurko 446 So 2nd 116? (Fla. 5th Distr. Ct. of App. 1984.)*

" Trespass to personal property is the intentional use or interference with a chattel which is in the posession of another without justification" *Coddington v Staab 716, So 2nd 851, (Fla 4th Dist. Ct of App. 1998).* Extortion involves "obtaining something or compelling some action by illegal means , by force or coersion." *Black's Law Disctionary 605(7th ed 1999)** To state a cause of action for defamation in Florida , a plaintiff must allege that (a) the defendant published a false statement, (b) about the plaintiff (c) to a third party and (d) that the falsity of the statement caused injury to the plaintiff. *Serepian v Forman 652 So 2nd 490 , 493-494 (Fla 4th Dist. Ct. App. 1995)* Plaintiff has failed to allege that defendants committed an unlawful act, tresspassed on her real property, impermissibly trespassed to her personal property , made any threats , or made any false statements about her. Moreover plaintiff had failed to comply with the pleading requirements that a plaintiff must make a "short and plain statement of the claim showing that the pleader is entitled to relief" Fed. R. Civ P. 8(a)(2) and make one claim in each count. Accordingly , any such claims must be dismissed.

Legal Malpractice.

Defendant Nason, Yeager contends that any claim for legal malpractice must fail because the firm never represented Dr. Schafler.Dr. Schafler's rationale is that because she is a shareholder in the associations, and the law firm represents the associations , then she is a client as well. *Silver Dunes Condominium of Destin Inc. v Beggs & Lang, So 2nd 1274 (Fla 1st Dis Ct of App 2000).* Where an attorney represents a closley held corporation, ** the attorney is not in privity with and therefore owes no separate duty of diligence and care to individual shareholders, absent a special circumstances or an agreement with the shareholder individually". Dr . Schafler a mere shareholder and not an intended beneficiary of the contract for legal services between the associations and the law firm , fails to state a claim of legal malpractice.

Conclusion.

The court finds that the plaintiff's complaint fails to state a claim upon relief may be granted , and therefore must be dismissed pursuant to Fed. R. Civ. P 12 (b) (6)

* the same source provides numerous definitions of extortion; plaintiff had used some as well. the district court had an agenda, and therefore chose a definition that fits the agenda.

** the associations are not corporations closed or otherwise; they are voluntary associations in contractual servitude to the property owners

In addition, even if the plaintiff could allege some unlawful act by the defendants for blocking her ability to rent out her unit , this court finds that no reasonable jury could award as punitive damages ian an amount that would enable the plaintiff to reach the jurisdictional threshold. The central claim of interference with a business relationship sets, forth facts that indicate that plaintiff suffered at most a little over $10.000 in lost rental income and related expenses. Plaintiff has failed to show that the alleged wrongful act involved fraud, malice, deliberate violence, oppression or outrageous conduct. *See Cook v Deltona Corp, 733 F 2nd 1552 (11th Cir. 1985)* Accordingly , the complaint must also be dimissed for lck of subject -matter jurisdiction pursuant to Fed. R.Civ.P 12 (b)(6).

It is hereby ORDERED and ADJUDGED as follows:
1. Defendants, Nason Yeager, Fairway Park, and Indian Springs 's motions to dismiss is hereby granted
2. Plaintiff's complaint is dismissed for lack of subject matter jurisdiction and failure to state a claim upon which relief may be granted
3. All pending motions are denied as moot and the Clerk of the court shall enter this case as closed.

April 25, 2002

ss/Daniel K.T. Hurley
District court judge